

UNITED STATES DISTRICT COURT
District of Massachusetts

Case No: 04-10023-GAO

MICHAEL SUBENKO

vs

COMMONWEALTH OF MASSACHUSETTS, ET ALS

MOTION TO STAY APPEAL UNTIL
DETERMINATION OF PENDING F.R.Civ.P. 60(a) MOTION

NOW COMES the Petitioner and hereby moves that this Honorable Court STAY the appeal of this Court's decision to dismiss the action pursuant to the AEDPA Act of 1996.

In support the petitioner states that his Rule 60(a) Motion is pending before this Honorable Court asking the Court to correct the error which resulted in a decision that would not have been issued under a correct view of the record. Petitioner's Rule 60(a) Motion is meritorious and may make any appeal moot. Nonetheless, should this Honorable Court disagree with the Rule 60 filing, it is in everyones best interest to then consolidate the denial of the motion and the original dismissal into one appeal.

WHEREFORE, this Honorable Court should stay the appeal until finalizing the Rule 60(a) motion.

Date: 3/28/05

Respectfully Submitted,

Michael Subenko

Michael Subenko, pro se,
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FILED
CLERKS OF
2005 MAR 30 P 12:
U.S. DISTRICT COURT
DISTRICT OF MASS

Michael Subenko

Certificate of Service
I certify that a true copy of this motion was this day mailed to the Atty. Gen.'s Office via 1st Class Mail: